

General Accounting Office

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(b) After the agency or department has taken the actions required by §§ 92.3 and 92.4, the employee, member, or other person from whom collection is sought may request the agency or department to submit the matter to the General Accounting Office.

(c) The agency or department shall submit all waiver applications aggregating more than \$1500 for which the agency recommends approval and all appeals, regardless of the amount, for consideration by the General Accounting Office to: Director, Claims Group, General Government Division, U.S. General Accounting Office, Washington, DC 20548.

(d) The submission shall include all of the information required by §§ 92.3 and 92.4, and any written comments on the matter submitted by the employee, member, or other person from whom collection is sought.

[56 FR 49584, Sept. 30, 1991, as amended at 56 FR 67467, Dec. 31, 1991]

§ 92.3 Report of the agency or department.

(a) Except as provided in paragraph (b) of this section, upon initiation of an application for waiver, the agency or department shall prepare a written report containing a chronological summary of the facts and circumstances including:

(1) The names and mailing addresses of each employee, member, or other person from whom collection is sought, or a statement that the person cannot reasonably be located;

(2) The aggregate amount of the claim;

(3) The date the erroneous payment was discovered;

(4) The date the employee, member, or other person from whom collection is sought was notified of the error and a statement of the erroneous amounts paid before and after receipt of such notice;

(5) A statement as to the circumstances under which the erroneous payment was made, the applicant's knowledge of the erroneous payment and the steps the applicant took, if any, to bring the matter to the attention of the appropriate official and the agency's response;

(6) A determination as to whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee, member, or other interested person and the factual basis for such a determination;

(7) A statement as to whether or not the erroneous payment is the subject of an exception made by the Comptroller General of the United States;

(8) Legible copies or the originals of supporting documents such as leave and earnings statements, travel authorizations and vouchers, and military orders;

(9) Statements of the employee, member, or other interested person;

(10) A statement as to the reason the agency or department believes the erroneous payment occurred and the corrective action taken to prevent the occurrence of similar erroneous payments.

(b) No written report is required where the amount involved is \$100 or less and there is no indication of fraud, misrepresentation, fault, or lack of good faith.

§ 92.4 Action by the agency or department.

Upon completion of the report, the agency or department,

(a) Shall grant or deny waiver if authorized by § 91.4 (b) or (c) of this subchapter, or refer the matter to the General Accounting Office in accordance with § 92.2(c), and;

(b) Shall provide the applicant written notice as to whether the application for waiver has been granted, denied, or referred to the General Accounting Office, provided the person can reasonably be located. When waiver is denied, the notice shall state the basis for that decision and that, upon request, the agency or department will forward an appeal to the General Accounting Office pursuant to § 92.2.

§ 92.5 Initial action by the General Accounting Office and appeals to the Comptroller General.

(a) The Claims Group will issue a letter to the agency or department granting or denying waiver in whole or in part. In every case where waiver is denied in whole or in part, the Claims

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Group will send a copy of the letter to the employee, member, or other person from whom collection is sought.

(b) Letters issued by the Claims Group granting or denying waiver may be appealed to the Comptroller General upon written request by the agency or department, or by the employee, member, or other person from whom collection is sought. The request should fully explain the errors alleged and the basis of the appeal and should be addressed to: Director, Claims Group, General Government Division, U.S. General Accounting Office, Washington, DC 20548.

(c) The Comptroller General will issue a decision on the appeal and will send a copy of the decision to the agency or department, and to the employee, member, or other person from whom collection is sought.

§ 92.6 Refund of amounts repaid and waived.

(a) When an employee, member, or other person from whom collection is sought has repaid all or part of a claim to the United States and all or part of the claim is subsequently waived, the application for waiver shall be construed as an application for a refund and the agency or department shall, to the extent of the waiver, refund the amount paid. However, no refund shall be paid where the employee, member, or other person from whom collection is sought cannot reasonably be located within 2 years after the effective date of the waiver. Refunds shall be charged to the account into which the agency deposited the collection.

(b) When no refund is made to an otherwise eligible person, the written record should include information as to the attempts made to locate that person and other pertinent information.

§ 92.7 Written record.

(a) The report of the agency or department, any written comments submitted by the employee, member or other person from whom collection is sought, an account of the waiver action taken and the reasons therefor, and other pertinent information such as the action taken to refund amounts repaid shall constitute the written record in each case.

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(b) The agency shall retain the written record for 6 years and 3 months for review by the General Accounting Office.

(c) Upon request by an employee, member, or other person against whom collection is sought, the agency or department shall make the written record of the waiver application that pertains to them available for inspection.

§ 92.8 Register of waivers.

(a) The agency or department shall maintain a register for each of the categories listed in paragraph (b) of this section showing the disposition of each application for waiver considered pursuant to this subchapter. These registers shall be retained for review by the General Accounting Office.

(b) The register required in paragraph (a) of this section shall contain the following information:

(1) The total amount waived by the agency or department;

(2) The number and dollar amount of waiver applications granted in full;

(3) The number of waiver applications granted in part and denied in part and the dollar amount of each;

(4) The number and dollar amount of waiver applications denied in their entirety;

(5) The number of waiver applications referred to the General Accounting Office for action;

(6) The dollar amount refunded as a result of waiver action by the agency or department; and

(7) The dollar amount refunded as a result of waiver action by the General Accounting Office.

§ 92.9 Referral of claims for collection or litigation.

No claim for the recovery of an erroneous payment that is under consideration for waiver shall be referred to the Attorney General unless the time remaining for suit within the applicable limitation does not permit such waiver consideration prior to referral.

PART 93 [Reserved]